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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,707	12/15/2000	James F. Howell	001248.02	7802

7590 09/29/2004

James E. Bradley
Bracewell & Patterson, L.L.P.
P.O.Box 61389
Houston,, TX 77208-1389

EXAMINER

BASHORE, ALAIN L

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/736,707

Applicant(s)

HOWELL ET AL.

Examiner

Alain L. Bashore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-4, 6-8, 10-11, 13, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brattain et al in view of Nazem et al in further view of Lukose.

Brattain et al discloses a method and system for disseminating real time information. Information as stock quotes is available from a provider of the information by a quote server (para 0046). A database is associated with the quote server (31).

Brattain et al does not explicitly disclose:

receiving the information from a provider of the information by a quote server;
and,

determining if the information is being requested by a user and then sending the requested information to a contact server which distributes the information.

Nazem et al discloses receiving the information from a provider of the information by a server (fig 2).

It would have been obvious to one with ordinary skill in the art to include receiving the information from a provider of the information by a quote server because Nazem et al discloses the need for information manipulations of a server (col 4, lines 15-23).

Lukose discloses determining if the information is being requested by a user and then sending the requested information to a contact server (fig 1) which distributes the information (para 0026, 0048, 0049).

It would have been obvious to one with ordinary skill in the art to include determining if the information is being requested by a user and then sending the requested information to a contact server which distributes the information to Brattain et al because Lukose teaches information distribution efficiency (para 0003, 0004).

Information distribution efficiency is broadly taught by both references, which would lead one with ordinary skill in the art to look to Lukose to solve this problem. Because both references are concerned with information distribution efficiency, they are considered analogous art.

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3. Claims 2, 5, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brattain et al in view of Lukose as applied to claims 1, 3-4, 6-8, 10-11, 13, 15 above, and further in view of Phillips et al.

Brattain et al in view of Lukose does not disclose the provider as a field vender.

Phillips discloses a provider as a field vender (col 11, lines 17-30; col 13, lines 5-17).

It would have been obvious to one with ordinary skill in the art to include a provider as a field vender to Brattain et al in view of Lukose because Phillips teaches such for network enhancement (col 1, lines 15-53).

4. Claims 9, 12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brattain et al in view of Lukose as applied to claims 1, 3-4, 6-8, 10-11, 13, 15 above, and further in view of Meyer et al.

Brattain et al in view of Lukose does not disclose tracking the history of each particular stock using the database.

Meyer et al disclose tracking the history of each particular stock using the database (para 0038).

It would have been obvious to one with ordinary skill in the art to include tracking the history of each particular stock using the database to Brattain et al in view of Lukose because Meyer et al teaches such for educational purposes (para 0038).

Response to Arguments

5. Applicant's arguments filed 6-10-04 have been fully considered but they are not persuasive.

Although references do not disclose or suggest the existence of applicant's problem or its cause, claims are rejected under 35 U.S.C 103 since references suggest a solution to problem; it is sufficient that references suggest doing what applicants did, although they do not teach or suggest exactly why this should be done, other than to obtain the expected superior beneficial results (In re Gershon, Goldberg, and Neiditch, 152 USPQ 602 (CCPA 1967)).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, motivation is shown in the prior art for the combination of references.

In response to applicant's argument that the references are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the references all fall within the field of endeavor for information distribution efficiency.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

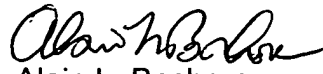
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alain L. Bashore whose telephone number is 703-308-1884. The examiner can normally be reached on about 7:00 am to 4:30 pm (Monday thru Thursday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Alain L. Bashore
Primary Examiner
Art Unit 3624